

22
09.02.2024
mb

C.P.A.N. 218 of 2024
in
W.P.A. No. 25771 of 2023
With
IA No. C.A.N. 1 of 2024
Sri Rudra Bhattacharya & Anr.
Vs.
Anil Kumar Srivastava

Mr. Rudra Bhattacharya
... petitioner no. 1 in person

Mr. Billwadal Bhattacharyya,
Mr. Tapan Bhanja
...for the alleged contemnor

Mr. Ramesh Chandra Prusti,
Mr. Sanjib Das,
Ms. Smriti Das,
Ms. Alisha Kar
...for the Bank of India

In Re.: C.P.A.N. 218 of 2024

1. The petitioner no. 1, appearing in person with leave of Court, seeks to impress upon the court that patent violation of the direction of this Court has been committed by the alleged contemnor.
2. By the order dated November 17, 2023, this Court had directed *inter alia* that Appeal No. 45 of 2023 should be taken up for hearing expeditiously and positively be disposed of by January 31, 2024 along with Appeal No. 466 of 2023.
3. It was made clear that no adjournment shall be granted in either of the matters to either party, except for extreme exigencies, if so arise.

4. It was also made clear that the time-frame was peremptory and mandatory and shall be adhered to, to the best of the powers of the Debts Recovery Appellate Tribunal (DRAT).

5. The petitioner places reliance on several orders passed thereafter by the DRAT. It is pointed out that despite the strict direction of this Court not to grant any unnecessary adjournment, adjournments were given on several occasions and delay was committed by the alleged contemnor on different dates.

6. Ultimately, although the hearing of the matter was concluded, the alleged contemnor, that is, the DRAT, recorded in his order that ten further days' extension was required to deliver the judgment. It is argued that, strangely, even thereafter on February 02, 2024, the alleged contemnor raised another issue and recorded that the said issue was important for decision of the appeal and it was necessary to hear the appellant as well as respondent to clarify this aspect. The matter was accordingly directed to be listed on February 05, 2024. The petitioner alleges that he was informed over the phone as to the next date of hearing.

7. A question is raised by the petitioner whether the said conduct of the alleged contemnor was

directed towards deliberate and wilful violation of the order of this Court.

8. The petitioner also seeks to highlight the time lost by the petitioner in the process.

9. Learned counsel appearing for the alleged contemnor presses an application filed by the alleged contemnor seeking for extension of ten days for passing the judgment. It is submitted that, in the meantime, the judgment has been delivered today itself.

10. Although the petitioner has a point that sufficient time has been lost by the petitioner in the process, the direction of this Court to dispose of the appeals within January 31, 2024 positively was, whatever may be the language it was couched in, in the nature of a direction *in terrorem*. It is well-settled that such directions are only for the guidance of the subordinate Tribunals and not peremptory in the sense that a contempt rule may be issued, particularly since the time taken after expiry of the original time schedule to comply with the order was miniscule.

11. In any event, in view of the circumstances, the application, bearing C.A.N. 1 of 2024, for extension of time is allowed, granting an extension of the time for disposing of the appeals in question for ten days. Since it is contended on behalf of the alleged

contemnor that the judgment has been passed today, the same may be communicated by tomorrow to the petitioners to enable the petitioners to challenge the same on merits, if the petitioners so feel necessary.

12. However, in view of the above observations, there is no scope of issuing a rule of contempt, thereby adopting the extreme measure, since the alleged contemnor has, in the meantime, delivered his judgment.

13. Hence, C.P.A.N. 218 of 2024 is disposed of in the light of the above observations with liberty to the petitioners to challenge the order passed in connection with the appeals before the appropriate forum.

14. C.A.N. 1 of 2024 is also disposed of accordingly.

15. The copy of the order and the extract of the cause list of the DRAT handed over by the petitioner today be kept on record.

16. There will be no order as to costs.

17. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)